IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20413 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DEVGADH BARIA TALUKA GAM VIAKSYUVAK MANDAL & 1 - Petitioner(s)
Versus
STATE OF GUJRAT & 3 - Respondent(s)

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Appearance :

MR NIRAV BUCH for NANAVATY ADVOCATES for Petitioner(s) : 1 - 2.
MS ML SHAH AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,
MR AD OZA for Respondent(s) : 3,
MS MAMTA R VYAS for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/09/2006

ORAL JUDGMENT

1. The petitioners herein have prayed for a

direction for providing grant in aid facility to the Higher Secondary class of the petitioner no.2 -school as per the policy of the Government. Shortly stated, facts of the petition are that petitioner no.1-trust runs a school at Devgadh-baria. It is the contention of the petitioner that the school is situated in Adivasi area. The petitioners have been granted necessary permission by the Government for running the School. Order dated 10-11-2003 clearly specifies that the permission is granted on the condition that the school will not receive grant and that no such claim will be made even in future.

1.1 The case of the petitioner however, is that the Government policy permits releasing of grant in favour of schools functioning in tribal area. The petitioners have applied for such a purpose to the Government. However, so far the petitioners have received no reply.

2. Broadly stated the case of the petitioners is

that the request of the petitioners for grant in aid facility for the school in question should be favourably considered by the Government in terms of the policy.

3. On the other hand the Government points out that the permission was granted to the petitioners with a specific condition that no grant will be paid and none will be claimed in future also. In somewhat similar factual background, this Court by an order dated 5-7-2006, in Special Civil Application No.6381/1998 and connected matters, was pleased to come to the conclusion that though the claim for grant cannot be made as a matter of right, the school cannot be precluded from making a request for all times to come since the Government itself had in similar circumstances, released grant in deserving cases. In this regard, Court had made certain other observations and given directions for following a uniform policy and for indicating reasons while considering such requests of different schools. Following observations of

this Court need to be noted :

"18. Under the circumstances, these petitions are disposed of by giving following directions:

i) The Government shall issue a G.R. laying down its policy for considering the cases as special cases for conversion from non-grant-in-aid to grant-in-aid institutions. Such a G.R. shall be issued along the line of the affidvit-in reply filed by Shri P.Panneervel on 8th March, 2006. This shall be done within a period of four weeks from the date of receipt of a copy of this order.

ii) In all future cases, application of interested institutions shall be considered by the competent authority applying the guidelines so laid down by the Government.

iii) While considering such applications, either accepting or rejecting, the authorities shall record and communicate the applicant its brief reasons for the conclusion.

iv) The applications of all the petitioners except those wherein the institutions have been closed down will be considered by the Government in light of the policy that may be circulated. Such consideration shall be prospective and on the basis of the Government policy being framed. Such consideration shall be expeditious and the concerned institutions will be communicated the outcome thereof within a period of eight weeks from the date of receipt of a copy of this order.

v) Till the Government formulates its policy, the interim injunction granted by this Court by the order dated 13.2.2006 not to grant any further applications to any of the institutions shall continue. It is, however, clarified that once the Government policy is formulated as mentioned above, it will be open for the Government to consider all cases on the basis of such policy."

5. Such observations and directions would apply to the petitioners also accordingly. This petition is disposed of by directing the respondents to consider the case of the petitioners for grant in aid facility bearing in mind above observations. If the petitioners make a fresh representation in this regard within a period of two weeks from today, same shall also be taken into account and the entire issue be disposed of expeditiously, preferably within a period of three weeks from the date of receipt of such additional representation.

6. With these directions, the petition is disposed of. Rule made absolute accordingly with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(raghu)